

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1410 of 1997

with

CIVIL REVISION APPLICATION NO. 1413 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

1-5 No

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ANILBHAI MOTIBHAI PATEL

Versus

HASMATALI NOORMOHAMED

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Appearance:

MR NALIN K THAKKER for Petitioner  
MR JB PARDIWALA for Respondent No. 1  
NOTICE SERVED BY DS for Respondent No. 2  
MR AJAY R MEHTA for Respondent No. 4

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 25/03/98

COMMON ORAL JUDGEMENT

By this common order, Civil Revision Application Nos. 1410 of 1997 and 1413 of 1997 are disposed of as both the applications arise out of the same accident which alleged to have taken place on 1.1.1985. Heard learned counsel for the parties. By the impugned order

dated 20.10.1994 Motor Accident Claims Tribunal, Valsad at Navsari has rejected the petitioners' application for restoration of the Miscellaneous Civil Application as well as application under Section 5 of the Limitation Act for condonation of delay of two months and three days. The learned judge did not find sufficient reason to condone the delay and restore the matter as the party did not produce any certificate with respect to illness on account of which they could not appear. The petitioners are poor villagers and it is not necessary that they receive treatment only by the doctors and in view of this it may not be possible in every case to produce the medical certificate. There was no reason to disbelieve the statement made by them. In view of this, the learned judge ought to have taken a liberal view of the matter.

The learned counsel appearing for the petitioners has also assured before me that now the petitioners will fully cooperate with the matter.

On careful consideration, in my view, it is a fit case where the delay ought to be condoned and the claim petitions be restored. In view of the aforesaid, both the revision applications are allowed and the impugned order dated 20.10.1994 passed by the Motor Accident Claims Tribunal, Valsad at Navsari are quashed and set aside. The petitioners' application for restoration of the claim petitions and the application for condonation of delay are granted. It is further directed that the petitioners shall not be entitled to interest on the claim if awarded for the period 20.10.1994 to 25.3.1998. Rule made absolute in each matter to the aforesaid extent. Writ may be sent forthwith.

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pkn.